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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/556,922

02/12/2007

Manuel Alcaine

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EXAMINER

CIRIC, LJILJANA V

ART UNIT

PAPER NUMBER

3744

MAIL DATE

DELIVERY MODE

07/27/2010

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/556,922	Applicant(s) ALCAINE ET AL.	
	Examiner Ljiljana (Lil) V. Ciric	Art Unit 3744	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 February 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 40-78 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 40-78 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 14 November 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>09/10/2009</u> . | 6) <input type="checkbox"/> Other: _____ |

Art Unit: 3744

DETAILED ACTION

Priority

1. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

Drawings

2. The drawings were received on November 14, 2005. These drawings are hereby approved.

Specification

3. The abstract of the disclosure is objected to because the last sentence of the abstract contains numerous grammatical and/or idiomatic informalities and/or has words missing therefrom, which render the last sentence generally incomprehensible as written. Correction is required. See MPEP § 608.01(b).

Claim Objections

4. The claims are objected to because they include reference characters which are not enclosed within parentheses.

Reference characters corresponding to elements recited in the detailed description of the drawings and used in conjunction with the recitation of the same element or group of elements in the claims should be enclosed within parentheses so as to avoid confusion with other numbers or characters which may appear in the claims. In particular, see "collector 90" in line 13 of claim 40, for example. See MPEP § 608.01(m).

5. Claims 65 and 66 are objected to because of the following informalities: "A" (claim 65, line 1; claim 66, line 1) should be replaced with "The". Appropriate correction is required.
6. Claim 65 is objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form. As written, claim 65 fails to limit in any way whatsoever claim 61 from which it depends

Claim Rejections - 35 USC § 112

7. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

8. Claims 40 through 78 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The claims are generally narrative and indefinite, written in run-on fashion, and thus failing to conform with current U.S. practice. They appear to be a literal translation into English from a foreign document and are replete with grammatical and idiomatic errors.

As an example, there is no proper antecedent basis in the claims for the limitation "the covering wall" [claim 40, line 9].

As another example, a number of the claims contain plural alternatives which further render indefinite the metes and bounds of protection sought thereby (i.e., "of this convexly curved wall or of this convexly curved wall segment" and "of this wall segment or of this wall" as recited in lines 3-4 and lines 4-5 of claim 54).

Additionally, the claims are replete with instances of a broad range or limitation together with a narrow range or limitation that falls within the broad range or limitation within the same claim. A broad range or limitation together with a narrow range or limitation that falls within the broad range or limitation (in the same claim) is considered indefinite, since the resulting claim does not clearly set forth the metes and bounds of the patent protection desired. See MPEP § 2173.05(c). Note the explanation given by the Board of Patent Appeals and Interferences in *Ex parte Wu*, 10 USPQ2d 2031, 2033 (Bd. Pat. App. & Inter. 1989), as to where broad language is followed by "such as" and then narrow language. The Board stated that this can render a claim indefinite by raising a question or doubt as to whether the feature introduced by such language is (a) merely exemplary of the remainder of the claim, and therefore not

Art Unit: 3744

required, or (b) a required feature of the claims. Note also, for example, the decisions of *Ex parte Steigewald*, 131 USPQ 74 (Bd. App. 1961); *Ex parte Hall*, 83 USPQ 38 (Bd. App. 1948); and *Ex parte Hasche*, 86 USPQ 481 (Bd. App. 1949). In the present instance, for example, claim 45 recites the broad recitation “a condenser”, and the claim also recites “in particular an air-conditioning condenser” which is the narrower statement of the range/limitation. Also in the present instance, as a further example, claim 48 recites “is curved in the named cross-section or cross-sections”, and the claim also recites “is essentially completely curved” which is the narrower statement of the broad range/limitation. Also in the present instance, claim 50 recites as one broad recitation “a wall”, and the claim also recites “(the floor wall)” which is the narrower statement of the range/limitation, with this being one of the several similar problematic pairs of ranges/limitations in the claim. Also in the present instance, each of claims 59, 76 and 77 recites the broad recitation “an angle between 95 and 175”, and each of the claims also recites “preferably in the range from 100 to 170” which is the narrower statement of the range/limitation.

Claim Rejections - 35 USC § 102

9. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

10. As best can be understood in view of the indefiniteness of the claims, claims 40 through 53, 57 through 70, and 74 through 78 are rejected under 35 U.S.C. 102(b) as being anticipated by Sugimoto et al. (made of record via IDS).

Makino et al. discloses a vehicular heat exchanger unit made of aluminum essentially as claimed, including, for example: a first heat exchanger or radiator 200 having a non-circular collector pipe or tank 230; and, a second heat exchanger or condenser 100 having a generally circular or elliptical collector pipe or tank 120.

Art Unit: 3744

The reference thus reads on the claims.

11. The non-application of prior art against claims 54 through 56 and 71 through 73 should not be construed as an indication of allowable subject matter, but rather of the extent of the indefiniteness of the claims.

Conclusion

12. The additional references made of record and not relied upon are considered pertinent to applicant's disclosure even though some of these do not constitute prior art per se.

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ljiljana (Lil) V. Ciric whose telephone number is 571-272-4909. The examiner works a flexible work schedule but can normally be reached on most days during the work week between the hours of 10:30 a.m. and 6:30 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Cheryl J. Tyler can be reached on 571-272-4834. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Ljiljana (Lil) V. Ciric/

Primary Examiner, Art Unit 3744

Application/Control Number: 10/556,922

Page 6

Art Unit: 3744